

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 7, “Disciplinary Action—Unlicensed Practice,” Iowa Administrative Code.

The rules in Chapter 7 describe the disciplinary actions the Board can impose on unlicensed persons.

The proposed amendment is a result of 2017 Iowa Acts, Senate File 408, which requires licensure rather than registration of architects practicing in this state. This bill passed the Iowa Senate on March 28, 2017, 49-0 and passed the Iowa House on April 6, 2017, 96-0; it was signed by then Governor Branstad on May 11, 2017. The proposed amendment changes terminology from registered/registration to licensed/licensure.

Consideration will be given to all written suggestions or comments received on or before July 25, 2017. Comments should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on July 25, 2017, at 9 a.m. in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

This proposed amendment was approved by the Board on May 19, 2017.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

This amendment is intended to implement Iowa Code chapter 544A as amended by 2017 Iowa Acts, Senate File 408.

The following amendment is proposed.

Amend rule 193B—7.3(544A) as follows:

193B—7.3(544A) Civil penalties against ~~nonregistrant~~ unlicensed person. The board may impose civil penalties by order against a person who is not ~~registered~~ licensed as an architect pursuant to Iowa Code chapter 544A based on the unlawful practices specified in Iowa Code section 544A.15(3). In addition to the procedures set forth in Iowa Code section 544A.15(3), this rule shall apply.

7.3(1) The notice of the board’s intent to impose a civil penalty required by Iowa Code section 544A.15(3) shall be served upon the ~~nonregistrant~~ unlicensed person by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the ~~nonregistrant~~ unlicensed person may accept service personally or through authorized counsel. The notice shall include the following:

a. to d. No change.

e. Notice of the ~~nonregistrant’s~~ unlicensed person’s right to a hearing and the time frame in which hearing must be requested.

f. No change.

7.3(2) ~~Nonregistrants~~ Unlicensed persons must request a hearing within 30 days of the date the notice is mailed, if served through restricted certified mail to the last-known address, or within 30 days of the date of service, if service is accepted or made in accordance with Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service postmark or the date of personal service.

7.3(3) No change.

7.3(4) If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against ~~registered~~ licensed architects.

7.3(5) In addition to the factors set forth in Iowa Code section 544A.15(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

a. to *g.* No change.

h. Whether the ~~nonregistrant~~ unlicensed person acted in bad faith.

i. The extent to which the ~~nonregistrant~~ unlicensed person cooperated with the board.

7.3(6) ~~A nonregistrant~~ An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

7.3(7) No change.